

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

UNITED STATES OF AMERICA	)	
	)	
v.	)	Criminal No. 3:14CR81–HEH
	)	
COREY MAYO,	)	
	)	
Petitioner.	)	

**MEMORANDUM OPINION**  
**(Denying 28 U.S.C. § 2255 Motion)**

Petitioner, a federal inmate proceeding with counsel, submitted this motion under 28 U.S.C. § 2255 (“§ 2255 Motion”) to vacate, set aside, or correct his sentence. (ECF Nos. 123, 130.) Petitioner asserted that, in light of the Supreme Court’s recent decision in *Johnson v. United States*, 135 S. Ct. 2551 (2015), his enhanced sentence under the United States Sentencing Guidelines (“USSG”) as a career offender is unconstitutional.<sup>1</sup> “Recently, the Supreme Court concluded that the Guidelines are not subject to a vagueness challenge under the Due Process Clause. . . . *Johnson*’s vagueness holding does not apply to the residual clause in [USSG] § 4B1.2(a)(2).” *United States v. Lee*, 855

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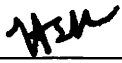
<sup>1</sup> As the Supreme Court has noted,

[u]nder the Armed Career Criminal Act [“ACCA”] of 1984, a defendant convicted of being a felon in possession of a firearm faces more severe punishment if he has three or more previous convictions for a “violent felony,” a term defined to include any felony that “*involves conduct that presents a serious potential risk of physical injury to another.*”

*Johnson*, 135 S. Ct. at 2555 (emphasis added) (quoting 18 U.S.C. § 924(e)(2)(B)). This part of the definition of violent felony “ha[s] come to be known as the Act’s residual clause.” *Id.* at 2556. The *Johnson* Court held “that imposing an increased sentence under the residual clause of the [ACCA] violates the Constitution’s guarantee of due process.” *Id.* at 2563.

F.3d 244, 246–47 (4th Cir. 2017) (citation omitted). Thus, Petitioner’s claim lacks merit.<sup>2</sup> Accordingly, the Government’s Motion to Dismiss (ECF No. 158) will be granted. The § 2255 Motion (ECF Nos. 123, 130) will be denied. The action will be dismissed, and the Court will deny a certificate of appealability.

An appropriate Order shall issue.

\_\_\_\_\_/s/  
HENRY E. HUDSON  
UNITED STATES DISTRICT JUDGE

Date: **Jun-30, 2017**  
Richmond, Virginia

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<sup>2</sup> Petitioner also asserted that his prior Virginia conviction for discharging a firearm in public does not qualify as a “crime of violence” under USSG’s § 4B1.2(a)’s force clause (§ 2255 Mot. 10–12). However, this challenge to his career offender enhancement under the guidelines is not cognizable under 28 U.S.C. § 2255. *See Lee*, 855 F.3d at 246–47; *United States v. Foote*, 784 F.3d 931, 939–43 (4th Cir. 2015) (holding that career offender designation is not a fundamental defect that results in a complete miscarriage of justice to warrant review of a sentence), *cert. denied*, 131 S. Ct. 2850 (2017); *United States v. Pregent*, 190 F.3d 279, 283–84 (4th Cir. 1999) (explaining that, “barring extraordinary circumstances,” error in the calculation of sentencing guidelines is not cognizable in a § 2255 motion).